

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DIVISION OF TEXAS
BEAUMONT DIVISION**

No. 1:08-CR-59

United States of America

v.

David Johnson

Defendant

Findings of Fact and Recommendation on Guilty Plea
Before United States Magistrate Judge

Pursuant to 28 U.S.C. § 636(b), this matter was referred to the undersigned United States magistrate judge to receive defendant's guilty plea.

On March 4, 2009, defendant, defendant's counsel, and the government came before the undersigned for guilty plea and allocution on Count I of the Superseding Indictment filed, charging a violation of Title 21, United States Code, Section 841(a)(1). After conducting the proceedings in the form and manner prescribed by Rule 11 of the Federal Rules of Criminal Procedure, the undersigned accepted the guilty plea and finds:

- (1) Defendant, after consultation with counsel of record, knowingly and voluntarily consents to pleading guilty before a United States magistrate judge, and did plead guilty to Count I of the Superseding Indictment

subject to conviction and imposition of sentence by the district judge to whom this case is assigned.

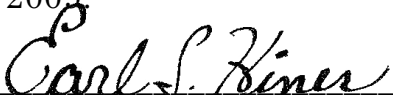
(2) At the hearing defendant was advised of his right to a jury trial. Defendant was also advised of the charge against him and the possible punishment. In open court, defendant thereafter waived his right to a jury trial.

(3) Defendant is fully competent and capable of entering an informed plea, is aware of the nature of the charges and the consequences of the plea, and the plea of guilty is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense.

RECOMMENDATION

Defendant's guilty plea has been accepted. The defendant should be adjudged guilty of the offense to which he has pleaded guilty.¹

SIGNED this 5 day of March, 2009



Earl S. Hines
United States Magistrate Judge

¹Upon conclusion of plea proceedings, both parties stated that they do not object to the findings and recommendation stated above. Moreover, magistrate judges accept felony guilty pleas for purposes of Rule 11, Federal Rules of Criminal Procedure, upon direction of a United States district judge and with consent of the parties under the "additional duties" clause of the Federal Magistrates Act of 1968, codified at 28 U.S.C. § 636(b)(3). Section 636(b)(3) does not provide a party with ten days to file written objections. Minetti v. Port of Seattle, 152 F.3d 1113 (9th Cir.1998); see also United States v. Brumer, 528 F.3d 157 (2nd Cir.2008), United States v. Reyna-Tapia, 328 F.3d 1114 (9th Cir.2003).